

November 15, 2017

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: Freedom of Information Act Request for Correspondence with Trailer Industry Groups

Dear National Freedom of Information Officer:

Environmental Defense Fund (“EDF”) respectfully requests records, as that term is described at 5 U.S.C. § 552(f)(2) of the Freedom of Information Act (“FOIA”), of the U.S. Environmental Protection Agency (“EPA” or the “Agency”).

EDF requests copies of all correspondence that included among its sender(s) or recipient(s) any of the following EPA employees:

- Brittany Bolen
- Bill Charmley
- Samantha Dravis
- Sarah Dunham
- Christopher Grundler
- Mandy Gunasekara
- David Haugen
- Benjamin Hengst, and/or
- E. Scott Pruitt,

and any of the following terms:

- trailer
- tractor-trailer
- tractor trailer
- truck-trailer, and/or
- truck trailer.

For the purposes of this request, correspondence includes, but is not limited to, hard-copy and electronic correspondence such as emails, voice mails, records of phone calls, text messages, and correspondence transmitted through any other electronic platform. This request includes any correspondence for which any of the above listed EPA employees were among the sender(s) or recipient(s), regardless of whether the correspondence also included any other sender(s) or recipient(s), and for which any of the above listed terms is used.

EDF also requests any records of meetings in which (1) any of the above listed EPA employees was among the participants and (2) any of the above listed terms was a topic of discussion.

EDF respectfully seeks records produced, modified, or transmitted since January 1, 2017 that exist as of the date that EPA begins searching for records responsive to this request.

If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, 5 U.S.C. § 552(b), please provide EDF with an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

Request for Expedited Processing

EDF respectfully seeks expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e)(1)(ii), which applies when there is “[a]n urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.” With respect to five other FOIA requests, EPA recently recognized EDF’s eligibility for expedited processing on this basis.¹ In support of this request for expedited processing, I certify that the following information is true and correct to the best of my knowledge and belief:

- (1) EDF engages in extensive, daily efforts to inform the public about matters involving environmental and public health policy. For example, EDF has multiple channels for distributing information to the public, including through direct communication with its more than 2 million members, press releases, blog posts, active engagement on social media, and frequent appearances by staff in major media outlets.²
- (2) In the 2016 Phase 2 Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines for model years 2021-2027 (“the Phase 2 standards”), EPA and the U.S. Department of Transportation (“DOT”) stated that the Greenhouse Gas (“GHG”) standards for trailers would provide “significant GHG reductions” and that GHG emission reductions today will “benefit the public health and public welfare of current and future generations.”³ The EPA GHG standards applicable to trailers contained in the Phase 2 standards were to go into effect on January 1, 2018.⁴

¹ See Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ2017-003545 (Feb. 23, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-005587 (Apr. 12, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-008622 (July 7, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009283 (July 13, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009579 (July 26, 2017).

² See, e.g., Martha Roberts, Scott Pruitt Keeps Americans in the Dark on His Activities, EDF Climate 411 Blog (June 20, 2017), <http://blogs.edf.org/climate411/2017/06/20/scott-pruitt-keeps-americans-in-the-dark-on-his-activities/>; EDF Associate Vice President Jeremy Symons, Did Trump’s EPA Chief Just Rewrite the EPA’s Mission?, Huffington Post (Apr. 20, 2017), <http://www.huffingtonpost.com/entry/58efe8b7e4b0156697224dab>.

³ 81 Fed. Reg. 73486.

⁴ 81 Fed. Reg. 73642-43. The EPA trailer standards are temporarily stayed pending judicial review, pursuant to an order of the U.S. Court of Appeals for the D.C. Circuit, issued on October 27, 2017.

- (3) On August 17, 2017, EPA announced that it is reconsidering the provisions of the Phase 2 Rule regarding emission standards for trailers, following comments received by EPA from trailer industry groups.⁵
- (4) If EPA delays, repeals, or otherwise weakens the emissions standards for trailers, such an action would allow additional GHG emissions, which would contribute to a warming climate and climate change-related public health hazards, including extreme weather events, rising temperatures, and air quality degradation.
- (5) It is urgent that the public understand the extent and nature of the correspondence that EPA has had with trailer industry groups and other stakeholders, before the Agency takes further action. The public must be able to assess the trailer industry's access to Agency decision-makers, compared to the access afforded to the general public. Denying expedited processing could conceal inequitable access until key actions have been taken or decisions have been finalized.

Request for Fee Waiver

As a non-partisan, non-profit organization that provides information that is in the public interest, EDF respectfully requests a waiver of fees associated with this request. We are not seeking information for any commercial purpose and the records received will contribute to a greater public understanding of an issue of considerable public interest: whether EPA is actively granting preferential access to trailer industry groups on the most important environmental policy decisions facing our nation today. 5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate the records to the public, as we routinely issue press releases, action alerts, reports, analyses, and other public outreach materials. We fully intend to disseminate newsworthy information received in response to this request. Accordingly, we respectfully request that the documents be furnished without charge. 5 U.S.C. § 552(a)(4)(A)(iii).

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. In the event EDF's request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at (303) 447-7205 or by email at ahenderson@edf.org.

Respectfully submitted,

Alice Henderson

Environmental Defense Fund

⁵ <https://www.epa.gov/newsreleases/epa-announces-intent-revisit-provisions-phase-2-heavy-duty-rules>.